

# REVENUE DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 421.17, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The amendment to Chapter 71 updates the Iowa Administrative Code to reflect changes to the definition of dual classification properties which were enacted by 2015 Iowa Acts, House File 616, section 3. The Act changed the definition to include properties that have a primary use for human habitation containing three or more dwelling units but also have a commercial or industrial use. The subject matter of subrule 71.1(5) establishes which properties shall be assigned a dual classification for property tax purposes.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2060C** on July 22, 2015.

The Department received public comments from local governments regarding the exclusion in the Noticed amendment of parcels with a primary use of commercial or industrial that also have a secondary use for human habitation consisting of fewer than three separate dwelling units. The Department received a comment from the public regarding the wording of subrule 71.1(5) in regard to the permissible dual classifications. The commenter indicated that the use of the forward slash ("/") seemed to indicate that the classification stated first was the primary use of the property and the classification stated second was the secondary use of the property. The commenter requested that two more permissible dual classifications be added: "multiresidential/commercial" and "multiresidential/industrial."

In the proposed amendment reflecting the legislative changes enacted during the 2015 legislative session, the Department inadvertently struck language in the introductory paragraph of subrule 71.1(5) that allowed dual classification for parcels with a primary use of commercial or industrial that also have a portion or portions of the parcel used or intended for human habitation consisting of fewer than three separate dwelling units. The rule language had provided for dual classification for parcels that had these traits. Therefore, the Department has amended the language of paragraph 71.1(5)"b" since publication of the Notice of Intended Action to provide for dual classification of these parcels once again. The Department has also edited the wording and punctuation of paragraph 71.1(5)"b" to make it clearer that the permissible dual classifications do not indicate a preference for the first classification listed.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department of Revenue adopted this amendment on August 26, 2015.

After analysis and review of this rule making, no negative impact on jobs has been found.

This amendment is intended to implement 2015 Iowa Acts, House File 616, section 3.

This amendment will become effective October 21, 2015.

The following amendment is adopted.

Amend subrule 71.1(5) as follows:

**71.1(5) *Multiresidential real estate.*** Multiresidential real estate shall include all ~~lands and buildings~~ parcels or portions of a parcel which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling units. For purposes of this rule, "used in conjunction with" means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. ~~Multiresidential real estate shall include that portion of a building that is used for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property.~~ Multiresidential real estate shall include mobile home parks, manufactured home

communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

a. No change.

b. *Dual classification.* Assessors shall use dual classification on ~~properties~~ parcels where the primary use of the ~~property~~ parcel is commercial or industrial and a portion or portions of the ~~property~~ meet the requirements of the multiresidential classification ~~parcel~~ are used or intended for human habitation, regardless of the number of dwelling units. ~~Properties~~ For the assessment year beginning January 1, 2015, a parcel where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel.

For assessment years beginning January 1, 2016, and after, assessors shall use dual classification on properties where the primary use of the parcel meets the requirements of the multiresidential classification and a portion or portions of the parcel meet the requirements of the commercial classification under subrule 71.1(6) or the industrial classification under subrule 71.1(7). If the primary use of a parcel is for human habitation and the parcel contains fewer than three separate dwelling units, it shall be classified as residential real estate under subrule 71.1(4).

~~There are~~ The only two permissible combinations of dual classifications:—commercial/ multiresidential and industrial/ multiresidential ~~are commercial and multiresidential or industrial and multiresidential.~~ The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

c. and d. No change.

[Filed 8/26/15, effective 10/21/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.